

SKAPIK LAW GROUP  
Mark J. Skapik (SBN 164957)  
Geraldyn L. Skapik (SBN 145055)  
Blair J. Berkley (SBN 222293)  
Matthew T. Falkenstein (SBN 333302)  
5861 Pine Avenue, Suite A-1  
Chino Hills, California 91709  
Telephone: (909) 398-4404  
Facsimile: (909) 398-1883

Attorneys for Plaintiffs  
DAVID VILLALOBOS, an individual; D.V, a minor,  
by and through his guardian ad litem, Griselda Viera

UNITED STATES DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA

DAVID VILLALOBOS, an individual;  
D.V. a minor, by and through his guardian  
ad litem, Griselda Viera;

Plaintiffs,

vs.

CITY OF ONTARIO; and DOES 1 through  
10, inclusive.

Defendants.

Case No.:

**COMPLAINT FOR DAMAGES**

1. 42 U.S.C. § 1983 (Unlawful Detention/Wrongful Arrest) (Count I)
2. 42 U.S.C. § 1983 (Unlawful Detention/Wrongful Arrest) (Count II)
3. 42 U.S.C. § 1983 (Excessive Force) (Count I)
4. 42 U.S.C. § 1983 (Excessive Force) (Count II)
5. 42 U.S.C. § 1983 (Failure to Intervene) (Count I)
6. 42 U.S.C. § 1983 (Failure to Intervene) (Count II)
7. 42 U.S.C. § 1983 (First Amendment)
8. 42 U.S.C. § 1983 (*Monell* Liability – Unconstitutional Custom, Practice or Policy)
9. 42 U.S.C. § 1983 (*Monell* Liability – Failure to Train)
10. 42 U.S.C. § 1983 (*Monell* Liability – Ratification)
11. Assault (Count I)
12. Assault (Count II)
13. Battery
14. Negligence (Count I)
15. Negligence (Count II)
16. Negligent Supervision, Hiring, and Retention
17. Intentional Infliction of Emotional Distress (Count I)

18. Intentional Infliction of Emotional Distress (Count II)  
19. Bane Act (Cal. Civil Code § 52.1) (Count I)  
20. Bane Act (Cal. Civil Code § 52.1) (Count II)  
21. Ralph Act (Cal. Civil Code § 51.7) (Count I)  
22. Ralph Act (Cal. Civil Code § 51.7) (Count II)

**DEMAND FOR JURY TRIAL**

**COMPLAINT FOR DAMAGES**

1. Plaintiffs DAVID VILLALOBOS and D.V., a minor by and through his guardian ad litem Griselda Viera, (collectively, “Plaintiffs”) for their complaint against Defendants CITY OF ONTARIO and DOES 1-10, inclusive, alleges as follows:

**INTRODUCTION**

2. This civil rights action seeks compensatory and punitive damages from Defendants for violating various rights under the United States Constitution in connection with a confrontation between Plaintiffs and yet-to-be identified members of the Ontario Police Department, which is owned and operated by Defendant CITY OF ONTARIO.

**PARTIES**

3. At all relevant times, DAVID VILLALOBOS (“DAVID”) was an individual residing in the County of San Bernardino, California. At all times relevant, DAVID is and was a male of Hispanic and Mexican heritage.

4. At all relevant times, D.V. (“D.V.”) was a minor residing in the County of San Bernardino, California. At all times relevant, D.V. is and was an underage male of Hispanic and Mexican heritage.

5. At all times relevant, Defendant CITY OF ONTARIO (“CITY”) is and was a duly organized public entity, form unknown, existing under the laws of the State of California. At all times relevant, the CITY was the employer of DOES 1-8, who were various CITY officers and/or supervisory officers; and DOES 9-10, who were managerial, supervisory, and policymaking employees of the CITY’s police department.

1 On information and belief, at all times relevant, DOES 1-10 were residents of the County  
2 of San Bernardino, California. DOES 1-10 are sued in their individual capacity for  
3 damages only.

4 6. At all times relevant, DOES 1-10, inclusive, were duly authorized  
5 employees and agents of the CITY, who were acting under color of law within the course  
6 and scope of their respective duties as police officers and with the complete authority and  
7 ratification of their principal, Defendant CITY.

8 7. At all relevant times, DOES 1-10 were duly appointed police officers and/or  
9 employees or agents of the CITY, subject to oversight and supervision by the CITY's  
10 elected and non-elected officials.

11 8. In doing the acts and failing and omitting to act as hereinafter described,  
12 Defendants DOES 1-10, inclusive, were acting on the implied and actual permission and  
13 consent of the CITY.

14 9. At all times mentioned herein, each and every CITY defendant was the agent  
15 of each and every other CITY defendant and had the legal duty to oversee and supervise  
16 the hiring, training, conduct, and employment of each and every other CITY defendant.

17 10. The true names of defendants DOES 1-10, inclusive, are unknown to  
18 Plaintiff, who therefore sues these defendants by such fictitious names. Plaintiff will seek  
19 leave to amend this complaint to show the true names and capacities of these defendants  
20 when they have been ascertained. Each of the fictitiously named defendants is  
21 responsible in some manner for the conduct and liabilities alleged herein.

### 22 **JURISDICTION AND VENUE**

23 11. This civil action is brought for the redress of alleged deprivations of  
24 constitutional rights as protected by 42 U.S.C. §§ 1983, 1985, 1986, 1988, and the Fourth  
25 Amendment of the United States Constitution. Jurisdiction is founded on 28 U.S.C. §§  
26 1331, 1343, and 1367.

1           12. Venue is proper in this Court under 28 U.S.C. § 1391(b), because  
2 Defendants reside in, and all incidents, events, and occurrence giving rise to this action  
3 occurred in the County of San Bernardino, California.

4                           **FACTS COMMON TO ALL CLAIMS FOR RELIEF**

5           13. Plaintiff repeats and realleges each and every allegation in paragraphs 1  
6 through 12 of this complaint with the same force and effect as though fully set forth  
7 herein.

8           14. On the night of December 29, 2023, DAVID's vehicle was involved in a car  
9 accident. DAVID was the driver, and D.V. was the passenger.

10           15. After DAVID's vehicle was side swiped, DAVID and D.V. sought CITY  
11 police officers' assistance to report the car accident.

12           16. Upon locating CITY police officers near the intersection of Holt Boulevard  
13 and Fontana, DAVID approached them in order to report the incident. At all times,  
14 DAVID was unarmed and did not make any threats towards any of the officers, including  
15 DOES 1-10, inclusive.

16           17. DAVID was speaking with one or more of DOES 1-10, inclusive, who  
17 began to encroach on his physical space. DOES 1-10, inclusive, were physically much  
18 larger than DAVID. As the officers approached DAVID, they started to manhandle him.  
19 DAVID, who had committed no criminal act and was not involved in any crime beyond  
20 the one of which he was a victim, pulled away from DOES 1-10, inclusive, and told them  
21 not to touch him.

22           18. In response, DOES 1-10, inclusive, tackled DAVID to the ground and  
23 punched him in the face multiple times, despite the fact that DAVID had committed no  
24 criminal act and was not a threat to himself or any other person.

25           19. While DAVID was on the ground, DOES 1-10, inclusive, placed their knees  
26 on his neck, held him against the ground, and repeatedly struck him with their fists and  
27 elbows in the face and head area.  
28

1           20. Upon information and belief, at no point prior to throwing DAVID to the  
2 ground did DOES 1-10, inclusive, inform him that he was being arrested or detained.

3           21. DOES 1-10, inclusive, used this force despite DAVID not having committed  
4 any crime, not threatening force against the officers, and not having been detained or  
5 arrested.

6           22. Other DOE officers watched and did not attempt to prevent DAVID from  
7 being brutally beaten by the other officers. In fact, these DOE officers attempted to  
8 prevent bystanders from recording the incident by standing in front of their cameras.

9           23. DAVID was thereafter taken to the hospital, and treated for facial bruising  
10 and a head injury, which could possibly constitute a traumatic brain injury.

11           24. While DAVID was being brutally beaten, his younger brother, D.V., was  
12 located in a parked car next to where the incident took place. D.V. was at all times  
13 relevant a minor and unarmed, and did not at any point attempt to exit the vehicle.

14           25. While DAVID was being brutally and mercilessly beaten, D.V. began to  
15 record the interaction on his cell phone and shout to tell the officers to stop the  
16 unconstitutional and senseless beating of DAVID. As D.V. began recording, one of the  
17 involved officers (DOES 1-10, inclusive), shined his flashlight directly in the lens of  
18 D.V.'s camera to intimidate him and prevent him from recording the obviously excessive  
19 force being used against DAVID.

20           26. This DOE officer then positioned himself between D.V. and DAVID so that  
21 D.V. could not video record the senseless beating of DAVID, and continued to shine his  
22 flashlight into D.V.'s face in order to intimidate him. D.V. attempted to continue to video  
23 record the incident.

24           27. At some point during the interaction, the same DOE officer who attempted  
25 to intimidate D.V. and prevent him from recording the senseless beating of DAVID gave  
26 D.V. a command regarding D.V.'s hands. D.V. was unsure about the nature of the  
27 command and believed he was told to put his hands back in the vehicle, to which he  
28 complied.



1           34. The unjustified arrest and detention of DAVID by DOES 1-8, inclusive,  
2 absent any reasonable suspicion or probable cause deprived DAVID of his right to be  
3 secure in his persons against unreasonable searches and seizures as guaranteed to DAVID  
4 under the Fourth Amendment to the United States Constitution and applied to state actors  
5 by the Fourteenth Amendment.

6           35. DAVID had not committed any criminal act in the presence of DOES 1-8,  
7 inclusive, nor had they acted in a way that a reasonable officer could believe would  
8 immediately precede a criminal act.

9           36. As such, based on those facts alone, there was no reasonable suspicion to  
10 detain DAVID at the time of the incident.

11           37. Upon arriving on the scene, DOES 1-8, inclusive, immediately escalated the  
12 situation by grabbing and throwing DAVID to the ground and mercilessly beating him.  
13 Ultimately, DAVID was arrested by the DOES 1-8, inclusive, despite not having  
14 committed any crime and there being no reasonable suspicion or probable cause to arrest  
15 him.

16           38. The DOE OFFICERS' and DOES 1-8, inclusive, actions described above  
17 violated DAVID's rights under the Fourth Amendment to the United States Constitution  
18 by subjecting DAVID to an unreasonable and warrantless search and seizure.

19           39. The DOE OFFICERS and DOES 1-8, inclusive, detained DAVID without  
20 reasonable suspicion and arrested him without probable cause.

21           40. In detaining DAVID without reasonable suspicion and arresting him without  
22 probable cause, the DOE OFFICERS and DOES 1-8, inclusive, acted intentionally and  
23 under color of state law.

24           41. As a result of the actions of DOES 1-8, inclusive, DAVID suffered physical  
25 injury, extreme mental and physical pain and suffering, emotional distress, and loss of  
26 enjoyment of life.









1 inclusive, used excessive and unreasonable force against DAVID when they, and each of  
2 them, grabbed him and threw him to the ground despite DAVID not having committed  
3 any criminal act and with no reasonable suspicion; punched, kicked, elbowed, and kned  
4 him repeatedly in the face and head area; placed a knee on DAVID's neck while he was  
5 prone, cutting off his airway by means of positional asphyxiation; and otherwise used  
6 excessive and unreasonable force against DAVID, causing injury.

7 58. The unreasonable uses of force described above by DOES 1-8, inclusive,  
8 deprived DAVID of his rights to be secure in his person against unreasonable searches  
9 and seizures as guaranteed to DAVID under the Fourth Amendment to the United States  
10 Constitution and applied to state actors by the Fourteenth Amendment.

11 59. As a result, DAVID suffered physical injury, a potential traumatic brain  
12 injury, extreme mental and physical pain and suffering, emotional distress, and loss of  
13 enjoyment of life.

14 60. As a result of the conduct of the DOES 1-8, inclusive, they are liable for  
15 DAVID's injuries, either because they were integral participants in the use of excessive  
16 force, or because they failed to intervene to prevent these constitutional violations.

17 61. The use of excessive force in this instance was unreasonable under the  
18 circumstances because it was without probable cause, and deprived DAVID of his Fourth  
19 Amendment right to be free of unreasonable seizures. DAVID was only ultimately  
20 charged with "resisting arrest" despite not actually resisting any arrest, posing no threat to  
21 the officers or anyone else, was not obstructing lawful police action, and being wholly  
22 compliant with all officers at the time of the incident. Therefore, the force used by DOES  
23 1-8, inclusive, was unreasonable under the circumstances.

24 62. In using such excessive and unreasonable force on DAVID, DOES 1-8,  
25 inclusive, acted intentionally and under color of state law.

26 63. The conduct of the DOES 1-8, inclusive, was willful, wanton, malicious, and  
27 done with reckless disregard for the rights and safety of Plaintiff and therefore warrants  
28 the imposition of exemplary and punitive damages as to DOES 1-8, inclusive.

64. DAVID also seeks attorneys' fees under this claim.

**IV.**

**FOURTH CLAIM FOR RELIEF**

**Unreasonable Search and Seizure – Excessive Force (42 U.S.C. § 1983) (Count II)**

(By D.V. against DOES 1-8, inclusive)

65. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 64 of this complaint with the same force and effect as though fully set forth herein.

66. The unjustified uses of excessive force D.V. by DOES 1-8, inclusive, deprived him of his right to be secure in his persons against unreasonable searches and seizures as guaranteed to him under the Fourth Amendment to the United States Constitution and applied to state actors by the Fourteenth Amendment.

67. Specifically, D.V. was subjected to excessive and unreasonable force when DOES 1-8, inclusive, drew their weapons and pointed them at D.V. in retaliation for D.V. taking a video recording of the excessive force used against DAVID. D.V. had not committed any crime, was clearly a minor, and was not a threat to any person, including DOES 1-8, inclusive, when he was subjected to this unreasonable and excessive use of force.

68. As a result, D.V. suffered extreme mental and emotional pain and suffering, emotional distress, and loss of enjoyment of life.

69. As a result of the conduct of DOES 1-8, inclusive, they are liable for D.V.'s injuries, either because they were integral participants in the use of excessive force, or because they failed to intervene to prevent these constitutional violations.

70. The use of excessive force in this instance was unreasonable under the circumstances because it was without probable cause, and deprived D.V. of his Fourth Amendment right to be free of unreasonable seizures. D.V. was held at gunpoint despite having not committed any crime, and despite this *de facto* arrest he was not charged with

1 any crime. Therefore, the force used by the DOE OFFICERS and DOES 1-8, inclusive,  
2 was unreasonable under the circumstances.

3 71. In using such excessive and unreasonable force on Plaintiff, DOES 1-8,  
4 inclusive, acted intentionally and under color of state law.

5 72. The conduct of DOES 1-8, inclusive, was willful, wanton, malicious, and  
6 done with reckless disregard for the rights and safety of D.V. and therefore warrants the  
7 imposition of exemplary and punitive damages as to DOES 1-8, inclusive.

8 73. D.V. also seeks attorneys' fees under this claim.

9 **V.**

10 **FIFTH CLAIM FOR RELIEF**

11 **Unreasonable Search and Seizure – Failure to Intervene (42 U.S.C. § 1983)**

12 (By DAVID against DOES 1-8, inclusive)

13 74. Plaintiffs repeat and reallege each and every allegation in paragraphs 1  
14 through 73 of this complaint with the same force and effect as though fully set forth  
15 herein.

16 75. The unjustified beating of DAVID by DOES 1-8, inclusive, deprived  
17 DAVID of his right to be secure in his persons against unreasonable searches and  
18 seizures as guaranteed to Plaintiff under the Fourth Amendment to the United States  
19 Constitution and applied to state actors by the Fourteenth Amendment.

20 76. Furthermore, each of DOES 1-8, inclusive, had a duty to intervene in  
21 unconstitutional uses of excessive force by each of the other defendants against DAVID,  
22 and each of them failed to do so.

23 77. DOES 1-8, inclusive, each observed and had a reasonable opportunity to  
24 intervene in the unreasonable and excessive uses of force by each of the other DOES 1-8,  
25 inclusive.

26 78. The unreasonable uses of force by DOES 1-8, inclusive, deprived DAVID of  
27 his right to be secure in his person against unreasonable searches and seizures as  
28

1 guaranteed to DAVID under the Fourth Amendment to the United States Constitution and  
2 applied to state actors by the Fourteenth Amendment.

3 79. As a result, DAVID suffered physical injury, extreme mental and physical  
4 pain and suffering, emotional distress, and loss of enjoyment of life.

5 80. As a result of the conduct of DOES 1-8, inclusive, they are each liable for  
6 DAVID's injuries because they failed to intervene in each of the other defendants'  
7 unconstitutional acts.

8 81. These uses of excessive and unreasonable force were unreasonable under the  
9 circumstances because there was no reasonable suspicion to detain DAVID and no  
10 probable cause to arrest or use any force against him. These uses of force deprived  
11 DAVID of his Fourth Amendment right to be free of unreasonable seizures. DAVID  
12 posed no threat to the officers or anyone else, and was not resisting or obstructing lawful  
13 police action, and, therefore, the force used by DOES 1-8, inclusive, was extremely  
14 unnecessary under the circumstances.

15 82. In using such excessive force on DAVID, DOES 1-8, inclusive, acted  
16 intentionally and under color of state law.

17 83. The conduct of DOES 1-8, inclusive, was willful, wanton, malicious, and  
18 done with reckless disregard for the rights and safety of DAVID and therefore warrants  
19 the imposition of exemplary and punitive damages as to DOES 1-8, inclusive.

20 84. DAVID also seeks attorneys' fees under this claim.

21 **VI.**

22 **SIXTH CLAIM FOR RELIEF**

23 **Unreasonable Search and Seizure – Failure to Intervene (42 U.S.C. § 1983)**

24 (By D.V. against DOES 1-8, inclusive)

25 85. Plaintiffs repeat and reallege each and every allegation in paragraphs 1  
26 through 84 of this complaint with the same force and effect as though fully set forth  
27 herein.  
28

1           86. The unjustified, unreasonable, and excessive use of force against and *de*  
2 *facto* arrest of D.V. deprived him of his right to be secure in his persons against  
3 unreasonable searches and seizures as guaranteed to Plaintiff under the Fourth  
4 Amendment to the United States Constitution and applied to state actors by the  
5 Fourteenth Amendment.

6           87. Furthermore, each of DOES 1-8, inclusive, had a duty to intervene in  
7 unconstitutional uses of excessive force by each of the other defendants against D.V., and  
8 each of them failed to do so.

9           88. DOES 1-8, inclusive, each observed and had a reasonable opportunity to  
10 intervene in the unreasonable and excessive uses of force against and unreasonable *de*  
11 *facto* arrest of D.V.

12           89. The unreasonable uses of force by DOES 1-8, inclusive, deprived D.V. of  
13 his right to be secure in his person against unreasonable searches and seizures as  
14 guaranteed to D.V. under the Fourth Amendment to the United States Constitution and  
15 applied to state actors by the Fourteenth Amendment.

16           90. As a result, D.V. suffered extreme mental and emotional pain and suffering,  
17 emotional distress, and loss of enjoyment of life.

18           91. As a result of the conduct of DOES 1-8, inclusive, they are each liable for  
19 D.V.'s injuries because they failed to intervene in each of the other defendants'  
20 unconstitutional acts.

21           92. These uses of excessive and unreasonable force were unreasonable under the  
22 circumstances because there was no reasonable suspicion to detain D.V. and no probable  
23 cause to arrest or use any force against him. These uses of force and *de facto* arrest  
24 deprived D.V. of his Fourth Amendment right to be free of unreasonable seizures. D.V.  
25 posed no threat to the officers or anyone else, and was not resisting or obstructing lawful  
26 police action, and, therefore, the force used by DOES 1-8, inclusive, was extremely  
27 unnecessary under the circumstances.  
28

1 93. In using such excessive force on D.V., DOES 1-8, inclusive, acted  
2 intentionally and under color of state law.

3 94. The conduct of DOES 1-8, inclusive, was willful, wanton, malicious, and  
4 done with reckless disregard for the rights and safety of D.V. and therefore warrants the  
5 imposition of exemplary and punitive damages as to DOES 1-8, inclusive.

6 95. D.V. also seeks attorneys' fees under this claim.

7 **VII.**

8 **SEVENTH CLAIM FOR RELIEF**

9 **Violation of First Amendment Rights (42 U.S.C. § 1983)**

10 (By D.V. against DOES 1-8, inclusive)

11 96. Plaintiffs repeat and reallege each and every allegation in paragraphs 1  
12 through 95 of this Complaint with the same force and effect as if fully set forth herein.

13 97. During the incident that took place on December 29, 2023, D.V. began using  
14 his cell phone to video record the excessive force being used against his brother, DAVID,  
15 by DOES 1-8, inclusive.

16 98. It is constitutionally protected activity to video record police officers. As  
17 such, D.V. was engaged in a constitutionally protected activity at all times relevant.

18 99. Plaintiff is informed and believes and thereon alleges that DOES 1-8,  
19 inclusive on the scene took umbrage against Plaintiff recording their actions.

20 100. In violation of D.V.'s First Amendment rights, DOES 1-8, inclusive,  
21 attempted to chill his constitutionally protected activity by escalating the encounter and  
22 threatening him with force. Specifically, one of DOES 1-8, inclusive, first attempted to  
23 obscure the recording taken by D.V. by shining his flashlight directly into D.V.'s camera,  
24 which made it impossible for D.V. to capture the excessive force being used against  
25 DAVID. When D.V. attempted to move his camera, the same officer (one of DOES 1-8,  
26 inclusive) pulled his gun out of its holster and pointed it directly at D.V. and began to  
27 verbally threaten him.  
28



101. The actions of DOES 1-8, inclusive, against D.V. would chill a person of ordinary firmness from continuing to engage in the protected activity, in this case the video recording of police officers.

102. D.V. is informed and believes and thereon alleges that D.V.'s protected activity was a substantial motivating factor in the conduct of DOES 1-8, inclusive.

103. As a result of the conduct of the DOES 1-8, inclusive, D.V. was harmed.

104. The conduct of DOES 1-8, inclusive, was willful, wanton, malicious, and done with reckless disregard for the rights and safety of D.V. and therefore warrants the imposition of exemplary and punitive damages as to DOES 1-8, inclusive.

105. D.V. also seeks attorney fees under this claim.

### VIII.

#### **EIGHTH CLAIM FOR RELIEF**

##### ***Monell Liability – Unconstitutional Custom, Practice, or Policy (42 U.S.C. § 1983)***

(By all Plaintiffs against Defendants CITY and DOES 9-10, inclusive)

106. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 105 of this complaint with the same force and effect as though fully set forth herein.

107. When DOES 1-8, inclusive, brutally beat DAVID and failed to intervene while he was unarmed and posed no threat to any other person, they acted pursuant to an expressly adopted official policy or a longstanding practice or custom of the Defendant CITY. Further, when DOES 1-8 used excessive force against and conducted a *de facto* arrest of D.V., while he was unarmed and posed no threat to any other person, they acted pursuant to an expressly adopted official policy or a longstanding practice or custom of the Defendant CITY.

108. DOES 1-8, inclusive, acted under color of state law and within the course and scope of their employment when they intentionally beat DAVID without there being an immediate threat of serious bodily injury, thereby using excessive and unreasonable force against DAVID. At all relevant times, DAVID was unarmed and surrendering.

1 DAVID did not verbally threaten any person or officer, and did not harm any person or  
2 officer. In fact, DAVID committed nothing remotely approaching criminal activity  
3 throughout the contact with the officers.

4 109. DOES 1-8, inclusive, acted under color of state law and within the course  
5 and scope of their employment when they intentionally used excessive and unreasonable  
6 force against and conducted a *de facto* arrest of D.V., thereby causing D.V. harm. At all  
7 relevant times D.V. was unarmed and engaged in protected activity,

8 110. DOES 1-8, inclusive, acted pursuant to an expressly adopted policy or  
9 longstanding practice or custom of the Defendant CITY.

10 111. On information and belief, DOES 1-8, inclusive, were not disciplined,  
11 reprimanded, retrained, provided additional training, suspended, or otherwise penalized  
12 in connection with the deprivation of Plaintiffs' rights.

13 112. On information and belief, the CITY has deficient policies with respect to  
14 the use of force. As a result of these deficient policies, DOES 1-8, inclusive, used  
15 excessive force on Plaintiffs and otherwise violated their constitutional rights, resulting in  
16 the injuries claimed in this lawsuit.

17 113. CITY, together with DOES 9-10, inclusive, and various other officials, had  
18 either actual or constructive knowledge of the deficient policies, practices and customs  
19 alleged herein. Despite having knowledge as stated above, CITY and DOES 9-10  
20 condoned, tolerated and through actions and inactions thereby ratified such policies.  
21 CITY and DOES 9-10 also acted with deliberate indifference to the foreseeable effects  
22 and consequences of these policies with respect to the constitutional rights of DAVID  
23 and other individuals similarly situated.

24 114. By perpetrating, sanctioning, tolerating, and ratifying the outrageous conduct  
25 and other wrongful acts, CITY and DOES 9-10, inclusive, acted with intentional,  
26 reckless, and callous disregard for Plaintiffs' constitutional rights. Furthermore, the  
27 policies, practices, and customs implemented, maintained, and tolerated by CITY and  
28

DOES 9-10, inclusive were affirmatively linked to and were a significantly influential force behind Plaintiffs' injuries.

115. By reason of the aforementioned acts and omissions, and as a direct and proximate result of the aforementioned unconstitutional policies and customs, DAVID endured substantial physical, mental, and emotional injuries and pain and suffering. Moreover, as a direct and proximate result of the aforementioned unconstitutional policies and customs, D.V. suffered and endured substantial emotional and mental distress and injuries.

116. The acts of each of CITY and DOES 9-10, inclusive, were willful, wanton, oppressive, malicious, fraudulent, and extremely offensive and unconscionable to any person of normal sensibilities, and therefore warrants imposition of exemplary and punitive damages as to DOES 9-10, inclusive.

117. Accordingly, Defendants CITY and DOES 9-10, inclusive, each are liable for compensatory damages under 42 U.S.C. § 1983.

118. Plaintiffs also seek reasonable attorneys' fees and costs under this claim.

## **IX.**

### **NINTH CLAIM FOR RELIEF**

#### ***Monell Liability – Failure to Train (42 U.S.C. § 1983)***

(By all Plaintiffs against CITY and DOES 9-10, inclusive)

119. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 118 of this complaint with the same force and effect as though fully set forth herein.

120. At all relevant times, DOES 1-8, inclusive, acted under color of law and within the course and scope of their employment with the CITY.

121. The acts of DOES 1-8, inclusive, as described herein, deprived Plaintiffs of their particular rights under the United States Constitution, including when they intentionally beat and used excessive force against DAVID without justification, causing

1 significant injuries, and when they used excessive force against and conducted a *de facto*  
2 arrest of D.V.

3 122. On information and belief, Defendant CITY failed to properly and  
4 adequately train the DOES 1-8, inclusive, including with regard to the use of physical  
5 force generally. The training policies of Defendants CITY and its policymakers,  
6 including any DOE policymakers, were not adequate to train its officers to handle the  
7 usual and recurring situations with which they must deal.

8 123. On information and belief, the CITY failed to properly train their officers  
9 regarding the use of force. As a result of this deficient policy and deficient training, the  
10 officer defendants used unlawful excessive force against DAVID, resulting in the injuries  
11 claimed in this lawsuit.

12 124. The training policies of Defendant CITY were not adequate to train its  
13 officers to handle the usual and recurring situations with which they must deal, including  
14 de-escalation techniques, tactical communication, tactical positioning, and the use of less  
15 than lethal force.

16 125. On information and belief, there are a number of civil lawsuits and other  
17 circumstances wherein the particular failure of the CITY and DOES 9-10, inclusive, to  
18 train their police officers in appropriate use of force tactics was evident. These cases  
19 involve police beatdowns of suspects who had not committed any crime and who were  
20 not resistant, much like DAVID in the instant matter.

21 126. Defendant CITY and DOES 9-10, inclusive were deliberately indifferent to  
22 the obvious consequences of its failure to train their officers adequately.

23 127. The failure of Defendant CITY and DOES 9-10, inclusive to provide  
24 adequate training caused the deprivation of Plaintiffs' rights by DOES 1-8, inclusive; that  
25 is, Defendants' failure to train is so closely related to the deprivation of Plaintiffs' rights  
26 as to be the moving force that caused the ultimate injury.

27 128. By reason of the aforementioned acts and omissions, and as a direct and  
28 proximate result of the aforementioned unconstitutional failure to train, DAVID endured

1 substantial physical, mental, and emotional injuries and pain and suffering. Moreover, as  
2 a direct and proximate result of the aforementioned unconstitutional failure to train, D.V.  
3 suffered and endured substantial emotional and mental distress and injuries.

4 129. Accordingly, Defendant CITY and DOES 9-10, inclusive, are liable to  
5 Plaintiffs for compensatory damages under 42 U.S.C. § 1983.

6 130. Plaintiffs also seek reasonable attorneys' fees and costs under this claim.

7 **X.**

8 **TENTH CLAIM FOR RELIEF**

9 ***Monell Liability – Ratification (42 U.S.C. § 1983)***

10 (By all Plaintiffs against CITY and DOES 9-10, inclusive)

11 131. Plaintiffs repeat and reallege each and every allegation in paragraphs 1  
12 through 130 of this complaint with the same force and effect as though fully set forth  
13 herein.

14 132. At all relevant times, DOES 1-8, inclusive, acted under color of law and  
15 within the course and scope of their employment with the CITY.

16 133. The acts of DOES 1-8, inclusive, as described herein, deprived Plaintiffs of  
17 their particular rights under the United States Constitution, including when they  
18 intentionally beat and used excessive force against DAVID without justification, causing  
19 significant injuries, and when they used excessive force against and conducted a *de facto*  
20 arrest of D.V.

21 134. Upon information and belief, a final policymaker, acting under color of law,  
22 potentially one or more of DOES 9-10, inclusive, has a history of ratifying the  
23 unconstitutional and unreasonable uses of force.

24 135. Upon information and belief, a final policymaker for the CITY, potentially  
25 one or more of DOES 9-10, inclusive, acting under color of law, who had final  
26 policymaking authority concerning the acts of DOES 1-8, inclusive, and the bases for  
27 them, ratified the acts and omissions of DOES 1-8, inclusive, and the bases for them.  
28 Upon information and belief, the final policymaker knew of and specifically approved of

1 Defendants' acts, specifically approving the DOES 1-8, inclusive, excessive force in the  
2 beating of unarmed DAVID when he was not an immediate threat of death or serious  
3 bodily injury, and of the excessive force used against and *de facto* arrest of D.V. when he  
4 was unarmed and did not pose any threat to the officers.

5 136. On information and belief, the official policies with respect to the incident  
6 are that officers are not to use excessive force against an individual. DOES 1-8's actions  
7 deviated from these official policies. Plaintiffs did not pose an immediate threat of death  
8 or serious bodily injury to the involved officers or anyone else.

9 137. Upon information and belief, a final policymaker(s) has determined that the  
10 acts of DOES 1-8, inclusive, were "within policy."

11 138. By reason of the aforementioned acts and omissions, Defendants CITY and  
12 DOES 9-10, inclusive, are liable to Plaintiffs for compensatory damages under 42 U.S.C.  
13 § 1983.

14 139. Plaintiffs also seeks reasonable attorneys' fees and costs under this claim.

15 **XI.**

16 **ELEVENTH CLAIM FOR RELIEF**

17 **Assault (Count I)**

18 (By DAVID against All Defendants)

19 140. Plaintiffs repeat and reallege each and every allegation in paragraphs 1  
20 through 139 of this complaint with the same force and affect as though fully set forth  
21 herein.

22 141. On December 29, 2023, DOES 1-8, inclusive, threatened to cause harmful  
23 contact with DAVID when he approached them seeking help.

24 142. DAVID did not consent to the conduct of DOES 1-8, inclusive.

25 143. In fact, DOES 1-10, inclusive, tackled and threw DAVID to the ground and  
26 proceed to punch and strike him multiple times in the face and head causing catastrophic  
27 injuries.  
28

144. The conduct of DOES 1-8, inclusive, was a substantial factor in causing DAVID's harm.

145. The conduct of DOES 1-8, inclusive, was intentional, despicable, malicious, and oppressive and was done with a willful, wanton, and conscious disregard for DAVID's rights.

146. The CITY is vicariously liable for the acts of DOES 1-8, inclusive, pursuant to California *Government Code* section 815.2(a), which provides that a public entity is liable for the injuries proximately caused by an act or omission of an employee of the public entity within the scope of their employment if the act or omission would have given rise to a cause of action against that employee.

## XII.

## **TWELFTH CLAIM FOR RELIEF**

## Assault (Count II)

(By D.V. against All Defendants)

147. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 146 of this complaint with the same force and affect as though fully set forth herein.

148. On December 29, 2023, DOES 1-8, inclusive, threatened to cause harmful contact with D.V. when he was recording them use excessive and unreasonable force against his brother DAVID.

149. In order to prevent D.V. from recording the use of excessive and unreasonable force against DAVID, DOES 1-8, inclusive, pointed their guns at D.V. while he remained seated in DAVID's car.

150. D.V. did not consent to the conduct of DOES 1-8, inclusive.

151. The conduct of DOES 1-8, inclusive, was a substantial factor in causing D.V.'s harm.



152. The conduct of DOES 1-8, inclusive, was intentional, despicable, malicious, and oppressive and was done with a willful, wanton, and conscious disregard for D.V.'s rights.

153. The CITY is vicariously liable for the acts of DOES 1-8, inclusive, pursuant to California *Government Code* section 815.2(a), which provides that a public entity is liable for the injuries proximately caused by an act or omission of an employee of the public entity within the scope of their employment if the act or omission would have given rise to a cause of action against that employee.

### XIII.

### **THIRTEENTH CAUSE OF ACTION**

## Battery

(By DAVID against All Defendants)

154. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 153 of this complaint with the same force and effect as though fully set forth herein.

155. DOES 1-8, while working as police officers for the CITY's police department, and acting within the course and scope of their duties, intentionally battered DAVID when they punched and elbowed him repeatedly in the face and head and placed a knee on his neck to restrict his breathing. As a result of the actions of DOES 1-8, inclusive, DAVID suffered severe physical, mental, and emotional pain and suffering. DOES 1-8 had no legal justification for using any force at all against DAVID and said defendants' use of force while carrying out their officer duties was an unreasonable use of force.

156. As a direct and proximate result of defendants' conduct as alleged above, DAVID suffered extreme and severe mental anguish and pain and has been injured in mind and body. DAVID has suffered significant injuries, including a potentially traumatic brain injury as a result of the conduct of DOES 1-8, inclusive.

157. CITY is vicariously liable for the wrongful acts of DOES 1-10, inclusive, pursuant to California Government Code § 815.2(a), which provides that a public entity is liable for the injuries caused by its employees within the scope of the employment if the employee's act would subject him or her to liability.

158. The conduct of DOES 1-8 was malicious, wanton, oppressive, and accomplished with a conscious disregard for the rights of DAVID, entitling DAVID to an award of exemplary and punitive damages.

**XIV.**

## FOURTEENTH CLAIM FOR RELIEF

## Negligence (Count I)

(By DAVID against All Defendants)

159. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 158 of this complaint with the same force and effect as though fully set forth herein.

160. The actions and inactions of the defendants were negligent and reckless, including, but not limited to:

- a. The failure to properly and adequately assess the need to detain, arrest, and use force against DAVID;
- b. The negligent tactics and handling of the situation with DAVID, including pre-beating negligence;
- c. The negligent detention and use of force against DAVID;
- d. The failure of DOES 9-10 to properly train and supervise employees, both professional and non-professional, including DOES 1-8;
- e. The failure to ensure that adequate numbers of employees with the appropriate education and training were available to meet the needs of and protect the rights of DAVID;

161. As a direct and proximate result of defendants' conduct as alleged above, and other undiscovered negligent conduct, DAVID was caused to suffer severe pain and

1 suffering. Also, as a direct and proximate result of defendants' conduct as alleged above,  
2 DAVID suffered extreme and severe mental anguish and pain and has been injured in  
3 mind and body.

4 162. CITY is vicariously liable for the wrongful acts of DOES 1-10 pursuant to  
5 California Government Code § 815.2, which provides that a public entity is liable for the  
6 injuries caused by its employees within the scope of the employment if the employee's  
7 act would subject him or her to liability.

8 **XV.**

9 **FIFTEENTH CLAIM FOR RELIEF**

10 **Negligence (Count II)**

11 (By D.V. against All Defendants)

12 163. Plaintiff repeats and realleges each and every allegation in paragraphs 1  
13 through 162 of this complaint with the same force and effect as though fully set forth  
14 herein.

15 164. The actions and inactions of the defendants were negligent and reckless,  
16 including, but not limited to:

- 17 a. The failure to properly and adequately assess the need to detain, arrest, and  
18 use force against D.V.;
- 19 b. The negligent tactics and handling of the situation with D.V.;
- 20 c. The retaliatory behavior against D.V. in violation of his First Amendment  
21 rights;
- 22 d. The negligent detention and use of force against D.V.;
- 23 e. The failure of DOES 9-10 to properly train and supervise employees, both  
24 professional and non-professional, including DOES 1-8;
- 25 f. The failure to ensure that adequate numbers of employees with the  
26 appropriate education and training were available to meet the needs of and  
27 protect the rights of D.V.;
- 28

1 165. As a direct and proximate result of defendants' conduct as alleged above,  
2 and other undiscovered negligent conduct, D.V. was caused to suffer severe pain and  
3 suffering. Also, as a direct and proximate result of defendants' conduct as alleged above,  
4 DAVID suffered extreme and severe mental anguish and pain and has been injured in  
5 mind and body.

6 166. CITY is vicariously liable for the wrongful acts of DOES 1-10 pursuant to  
7 California Government Code § 815.2, which provides that a public entity is liable for the  
8 injuries caused by its employees within the scope of the employment if the employee's  
9 act would subject him or her to liability.

10 **XVI.**

11 **SIXTEENTH CLAIM FOR RELIEF**

12 **Negligent Supervision, Hiring, and Retention**

13 (By all Plaintiffs against CITY and DOES 9-10, inclusive)

14 167. Plaintiffs repeat and reallege each and every allegation in paragraphs 1  
15 through 166 of this complaint with the same force and effect as though fully set forth  
16 herein.

17 168. CITY hired DOES 1-8, inclusive, as police officers in its police department.

18 169. DOES 1-8, inclusive, were unfit and/or incompetent to perform the work of  
19 a CITY police officer for which they were hired.

20 170. CITY and DOES 9-10, inclusive, knew or should have known that DOES 1-  
21 8, inclusive, were unfit or incompetent and that their lack of fitness or incompetence  
22 created a particular risk to others, including Plaintiffs and other residents of CITY.

23 171. CITY's and DOES 9-10, inclusive, negligence in supervising, hiring, or  
24 retaining DOES 1-8, inclusive, was a substantial factor in causing Plaintiffs' harm.

25 172. As a direct and proximate cause of CITY's actions or inactions, Plaintiffs  
26 suffered extreme mental anguish and pain and have been injured in the mind and body.

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**XVII.**

**SEVENTEENTH CLAIM FOR RELIEF**

**Intentional Infliction of Emotional Distress (Count I)**

(By DAVID against all Defendants)

173. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 172 of this complaint with the same force and effect as though fully set forth herein.

174. On December 29, 2023, DOES 1-8, inclusive, used excessive and unreasonable force against DAVID when they grabbed, threw him to the ground, punched him and elbowed him repeatedly in the face and head, restricted his airflow by placing a knee on his neck, and forcibly restraining him. DOES 1-8, inclusive, had no reasonable suspicion to detain DAVID and no probable cause to arrest him, much less use any amount of force on him.

175. DAVID was not engaged in any criminal activity and was not a threat to himself or to anyone else. DOES 1-8, inclusive, decided to use excessive and unreasonable force and to escalate the situation in a purely punitive decision in order to exact extrajudicial punishment on DAVID.

176. To further punish DAVID, DOES 1-8, inclusive, detained him without reasonable suspicion and arrested him without probable cause.

177. DOES 1-8, inclusive, acted in an outrageous way by their unjustified and unreasonable use of excessive force against DAVID and by their unlawful detention and arrest of DAVID.

178. DOES 1-8, inclusive, acted intentionally and with reckless disregard that DAVID would suffer emotional stress and distress from such an outrageous and excessive use of force on his person, despite no criminal activity being afoot.

179. DOES 1-8, inclusive, acted intentionally and with reckless disregard that DAVID would suffer severe emotional stress and distress from being wrongfully detained without reasonable suspicion, wrongfully arrested without probable cause, and

1 subject to extreme and excessive force at the hands of the officers, who were full grown  
2 men.

3 180. As an actual and proximate result of the conduct of DOES 1-8, inclusive,  
4 DAVID suffered and continues to suffer from severe emotional distress to this day.

5 181. The conduct of DOES 1-8, inclusive, was intentional, despicable, malicious,  
6 and oppressive and was done with a willful, wanton, and conscious disregard for  
7 DAVID's rights.

8 182. The CITY is vicariously liable for the acts and omissions of the DOE  
9 OFFICERS and DOES 1-8, inclusive, pursuant to California *Government Code* §  
10 815.2(a), which provides that a public entity is liable for the injuries proximately caused  
11 by an act or omission of an employee of the public entity within the scope of their  
12 employment if that act or omission would have given rise to a cause of action against that  
13 employee.

14 **XVIII.**

15 **EIGHTEENTH CLAIM FOR RELIEF**

16 **Intentional Infliction of Emotional Distress (Count II)**

17 (By D.V. against all Defendants)

18 183. Plaintiffs repeat and reallege each and every allegation in paragraphs 1  
19 through 182 of this complaint with the same force and effect as though fully set forth  
20 herein.

21 184. On December 29, 2023, D.V. was a minor child.

22 185. On December 29, 2023, DOES 1-8, inclusive, used excessive and  
23 unreasonable force against D.V. they drew and pointed their guns directly at him.  
24 Moreover, DOES 1-8, inclusive, conducted an unlawful *de facto* arrest of D.V. during  
25 this encounter. DOES 1-8, inclusive, had no reasonable suspicion to detain D.V. and no  
26 probable cause to arrest him, much less use any amount of force on him.

27 186. D.V. was not engaged in any criminal activity and was not a threat to  
28 himself or to anyone else. DOES 1-8, inclusive, decided to use excessive and

1 unreasonable force and conduct a *de facto* arrest in a purely punitive decision in order to  
2 exact extrajudicial punishment on D.V..

3 187. To further punish D.V., DOES 1-8, inclusive, detained him without  
4 reasonable suspicion and conducted a *de facto* arrest of his person without probable  
5 cause.

6 188. DOES 1-8, inclusive, acted in an outrageous way by their unjustified and  
7 unreasonable use of excessive force against D.V. and by their unlawful detention and  
8 arrest of D.V..

9 189. DOES 1-8, inclusive, acted intentionally and with reckless disregard that  
10 D.V. would suffer emotional stress and distress from such an outrageous and excessive  
11 use of force on his person, despite no criminal activity being afoot.

12 190. DOES 1-8, inclusive, acted intentionally and with reckless disregard that  
13 D.V. would suffer severe emotional stress and distress from being wrongfully detained  
14 without reasonable suspicion, wrongfully arrested without probable cause, and subject to  
15 extreme and excessive force at the hands of the officers, who were full grown men.

16 191. As an actual and proximate result of the conduct of DOES 1-8, inclusive,  
17 D.V. suffered and continues to suffer from severe emotional distress to this day.

18 192. The conduct of DOES 1-8, inclusive, was intentional, despicable, malicious,  
19 and oppressive and was done with a willful, wanton, and conscious disregard for D.V.'s  
20 rights.

21 193. The CITY is vicariously liable for the acts and omissions of the DOE  
22 OFFICERS and DOES 1-8, inclusive, pursuant to California Government Code §  
23 815.2(a), which provides that a public entity is liable for the injuries proximately caused  
24 by an act or omission of an employee of the public entity within the scope of their  
25 employment if that act or omission would have given rise to a cause of action against that  
26 employee.

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**XIX.**

**NINETEENTH CLAIM FOR RELIEF**

**Bane Act (California Civil Code § 52.1) (Count I)**

(By DAVID against all Defendants)

194. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 193 of this complaint with the same force and effect as though fully set forth herein.

195. On December 29, 2023, DOES 1-8, inclusive, used excessive and unreasonable force against DAVID when they grabbed, threw him to the ground, punched him and elbowed him repeatedly in the face and head, restricted his airflow by placing a knee on his neck, and forcibly restraining him. DOES 1-8, inclusive, had no reasonable suspicion to detain DAVID and no probable cause to arrest him, much less use any amount of force on him. These actions deprived DAVID of his Fourth Amendment rights.

196. The actions of DOES 1-8, inclusive, caused injuries to DAVID.

197. DOES 1-8, inclusive, interfered with DAVID's Fourth Amendment rights to be free from unconstitutional searches and seizures by means of threats to DAVID's person and intimidation by means of showing unnecessary and unreasonable force under the circumstances.

198. DOES 1-8, inclusive, threatened to use force on DAVID despite the fact that there was no probable cause to detain him and no reasonable suspicion to arrest him. DAVID had committed no crime and in fact was seeking the help of the very officers who brutally attacked him. The officers were full grown men and DAVID was only nineteen years old at the time of the beatdown.

199. The conduct of DOES 1-8, inclusive, was intentional, despicable, malicious, and oppressive and was done with a willful, wanton, and conscious disregard for DAVID's rights.

200. The CITY and DOES 9-10, inclusive, are vicariously liable for the acts and omissions of DOES 1-8, inclusive, pursuant to California Government Code § 815.2(a), which provides that a public entity is liable for the injuries proximately caused by an act or omission of an employee of the public entity within the scope of their employment if that act or omission would have given rise to a cause of action against that employee.

**XX.**

**TWENTIETH CLAIM FOR RELIEF**

**Bane Act (California Civil Code § 52.1) (Count II)**

(By D.V. against all Defendants)

201. Plaintiff repeats and realleges each and every allegation in paragraphs 1 through 200 of this complaint with the same force and effect as though fully set forth herein.

202. On December 29, 2023, DOES 1-8, inclusive, used excessive and unreasonable force against D.V. when they held him at gunpoint in retaliation for D.V. recording their excessive uses of force against DAVID. DOES 1-8, inclusive, had no reasonable suspicion to detain D.V. and no probable cause to arrest him, much less use any amount of force on him. These actions deprived D.V. of his First and Fourth Amendment rights.

203. The actions of DOES 1-8, inclusive, caused injuries to D.V..

204. DOES 1-8, inclusive, interfered with D.V.'s Fourth Amendment rights to be free from unconstitutional searches and seizures by means of threats to D.V.'s person and intimidation by means of showing unnecessary and unreasonable force under the circumstances, specifically by holding D.V. at gunpoint. Moreover, DOES 1-8, inclusive, interfered with D.V.'s First Amendment rights by illegally seizing him and conducting an illegal *de facto* arrest of D.V. in retaliation against D.V. asserting his First Amendment right to video record the police.

205. DOES 1-8, inclusive, threatened to use force on D.V. despite the fact that there was no probable cause to detain him and no reasonable suspicion to arrest him.

1 D.V. had committed no crime and in fact was asserting his Constitutionally-guaranteed  
2 First Amendment right to record the officers who were brutally beating his brother  
3 DAVID. The officers were full grown men and DAVID was only nineteen years old at  
4 the time of the beatdown. D.V. was a minor at the time of the incident when DOES 1-8,  
5 inclusive, held him at gunpoint.

6 206. The conduct of DOES 1-8, inclusive, was intentional, despicable, malicious,  
7 and oppressive and was done with a willful, wanton, and conscious disregard for D.V.'s  
8 rights.

9 207. The CITY and DOES 9-10, inclusive, are vicariously liable for the acts and  
10 omissions of DOES 1-8, inclusive, pursuant to California Government Code § 815.2(a),  
11 which provides that a public entity is liable for the injuries proximately caused by an act  
12 or omission of an employee of the public entity within the scope of their employment if  
13 that act or omission would have given rise to a cause of action against that employee.

14 **XXI.**

15 **TWENTY-FIRST CLAIM FOR RELIEF**

16 **Ralph Act (California Civil Code § 51.7) (Count I)**

17 (By DAVID against all Defendants)

18 208. Plaintiffs repeat and reallege each and every allegation in paragraphs 1  
19 through 207 of this complaint with the same force and effect as though fully set forth  
20 herein.

21 209. On December 29, 2023, DOES 1-8, inclusive, used excessive and  
22 unreasonable force against DAVID when they grabbed, threw him to the ground,  
23 punched him and elbowed him repeatedly in the face and head, restricted his airflow by  
24 placing a knee on his neck, and forcibly restraining him. DOES 1-8, inclusive, had no  
25 reasonable suspicion to detain DAVID and no probable cause to arrest him, much less  
26 use any amount of force on him. These actions deprived DAVID of his Fourth  
27 Amendment rights.

28 210. The actions of DOES 1-8, inclusive, caused injuries to DAVID.

211. A substantial motivating reason for the conduct of DOES 1-8, inclusive, was DAVID's race, gender, and color. DAVID is a male of Hispanic heritage.

212. A reasonable person in DAVID's position would have believed that the DOES 1-8, inclusive, would carry out their threats of using physical violence against DAVID.

213. A reasonable person in DAVID's position would have been intimidated by the conduct and threats of DOES 1-8, inclusive.

214. In using excessive force on DAVID, DOES 1-8, inclusive, acted intentionally and under color of state law.

215. The excessive force used by DOES 1-8, inclusive, was the actual and proximate cause of the injuries to DAVID.

216. The conduct of DOES 1-8, inclusive, was intentional, despicable, malicious, and oppressive and was done with a willful, wanton, and conscious disregard for DAVID's rights.

217. The CITY and DOES 9-10, inclusive, are vicariously liable for the acts and omissions of DOES 1-8, inclusive, pursuant to California Government Code § 815.2(a), which provides that a public entity is liable for the injuries proximately caused by an act or omission of an employee of the public entity within the scope of their employment if that act or omission would have given rise to a cause of action against that employee.

**XXII.**

## TWENTY-SECOND CLAIM FOR RELIEF

**Ralph Act (California Civil Code § 51.7) (Count II)**

(By D.V. against all Defendants)

218. Plaintiffs repeat and reallege each and every allegation in paragraphs 1 through 217 of this complaint with the same force and effect as though fully set forth herein.

219. On December 29, 2023, DOES 1-8, inclusive, used excessive and unreasonable force against D.V. when they held him at gunpoint and threatened force

1 against him in retaliation for D.V. recording their excessive uses of force against DAVID.  
2 DOES 1-8, inclusive, had no reasonable suspicion to detain D.V. and no probable cause  
3 to arrest him, much less use any amount of force on him. These actions deprived D.V. of  
4 his First and Fourth Amendment rights.

5 220. The actions of DOES 1-8, inclusive, caused injuries to D.V.

6 221. A substantial motivating reason for the conduct of DOES 1-8, inclusive, was  
7 DAVID's race, gender, and color. D.V. is a male of Hispanic heritage.

8 222. A reasonable person in D.V.'s position would have believed that the DOES  
9 1-8, inclusive, would carry out their threats of using physical violence against D.V.

10 223. A reasonable person in D.V.'s position would have been intimidated by the  
11 conduct and threats of DOES 1-8, inclusive.

12 224. In using excessive force on D.V., DOES 1-8, inclusive, acted intentionally  
13 and under color of state law.

14 225. The excessive force used by DOES 1-8, inclusive, was the actual and  
15 proximate cause of the injuries to D.V.

16 226. The conduct of DOES 1-8, inclusive, was intentional, despicable, malicious,  
17 and oppressive and was done with a willful, wanton, and conscious disregard for D.V.'s  
18 rights.

19 227. The CITY and DOES 9-10, inclusive, are vicariously liable for the acts and  
20 omissions of DOES 1-8, inclusive, pursuant to California Government Code § 815.2(a),  
21 which provides that a public entity is liable for the injuries proximately caused by an act  
22 or omission of an employee of the public entity within the scope of their employment if  
23 that act or omission would have given rise to a cause of action against that employee.

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**PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs requests an entry of judgment in their favor and against Defendants CITY OF ONTARIO, and DOES 1-10, inclusive, as follows:

- A. For Compensatory damages in the amount to be proven at trial;
- B. For general and special damages;
- C. For exemplary and punitive damages against the individual defendants in an amount to be proven at trial;
- D. For statutory damages pursuant to California Civil Code § 52(b)(3);
- E. For interest;
- F. For reasonable costs of this suit and attorneys' fees; and
- G. For such other further relief as the Court may deem just, proper, and appropriate.

SKAPIK LAW GROUP

Dated: February 11, 2025

By: /s/ Matthew T. Falkenstein  
Mark J. Skapik  
Geraldyn L. Skapik  
Blair J. Berkley  
Matthew T. Falkenstein  
Attorneys for Plaintiffs,  
DAVID VILLALOBOS, an individual; D.V.,  
a minor, by and through his guardian ad  
litem, Griselda Viera

**DEMAND FOR JURY TRIAL**

Plaintiff hereby demands trial by jury.

SKAPIK LAW GROUP

Dated: February 11, 2025

By: /s/ Matthew T. Falkenstein  
Mark J. Skapik  
Geraldyn L. Skapik  
Matthew T. Falkenstein  
Attorneys for Plaintiff DAVID  
VILLALOBOS, an individual; D.V, a  
minor, by and through his guardian ad  
litem, Griselda Viera